

CS FOR HOUSE BILL NO. 79(FSH)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-SECOND LEGISLATURE - FIRST SESSION

BY THE HOUSE SPECIAL COMMITTEE ON FISHERIES

Offered: 3/3/21

Referred: Finance

Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to sport fishing operators and sport fishing guides; requiring the
2 Department of Fish and Game to prepare and submit a report; and providing for an
3 effective date."

4 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

5 * **Section 1.** AS 16.05.340(a) is amended by adding a new paragraph to read:

6 (28) Fishing services licenses

7 (A) Sport fishing operator license 200

8 (B) Sport fishing guide license 100

9 (C) Sport fishing operator and guide combined license ... 200.

10 * **Sec. 2.** AS 16.40 is amended by adding new sections to read:

11 **Sec. 16.40.262. Sport fishing operator license.** (a) The department shall issue
12 an annual sport fishing operator license to a person who

13 (1) holds a current business license under AS 43.70 to provide services
14 to sport fishermen;

(2) presents proof satisfactory to the department of a general liability insurance policy or marine protection and indemnity insurance policy, covering the services provided by the person and the person's employees to sport fishermen; the liability insurance or marine protection and indemnity insurance must be in the amount of at least \$100,000 for each incident and \$300,000 for all incidents in a year;

(3) pays the license fee prescribed by AS 16.05.340(a); and

(4) satisfies all additional requirements adopted in regulation by the Board of Fisheries.

(b) A person may not provide sport fishing services unless the person is licensed and insured under (a) of this section.

(c) A person licensed under this section may contract to provide sport fishing guide services to a sport fisherman through an employee who holds a current sport fishing guide license under AS 16.40.272.

(d) A person licensed under this section may not directly provide sport fishing guide services to a sport fisherman unless the person is also licensed as a sport fishing guide or holds a combined operator and guide license under AS 16.40.272.

(e) A person licensed as a sport fishing operator may not aid in the commission of a violation of AS 16.05 - AS 16.40 or a regulation adopted under AS 16.05 - AS 16.40, including regulations relating to the proper method to release fish, by a sport fishing guide who is employed by the person or by a sport fisherman who is a client of the person.

(f) In this section, "sport fishing services" means the indirect provision of assistance, for compensation or with the intent to receive compensation, to a person engaged in sport fishing in taking or attempting to take fish or shellfish by a business that employs a sport fishing guide to provide sport fishing guide services to the person during any portion of a sport fishing trip; "sport fishing services" does not include

(1) an activity for which a sport fishing guide license is required; or

(2) booking and other ancillary services provided by a tour broker or agent to a sport fishing operator.

Sec. 16.40.272. Sport fishing guide license; combined operator and guide license. (a) A natural person may obtain an annual sport fishing guide license if the

1 person

2 (1) is a citizen of the United States, Canada, or Mexico, or is a resident
3 alien;

4 (2) is certified in first aid by the American Red Cross or a similar
5 organization;

6 (3) holds a current sport fishing license from the state;

7 (4) pays the license fee prescribed by AS 16.05.340(a); and

8 (5) satisfies all additional requirements adopted in regulation by the
9 Board of Fisheries.

10 (b) A natural person may obtain an annual sport fishing operator and guide
11 combined license if the person satisfies the requirements for a sport fishing operator
12 license under AS 16.40.262 and for a license under this section and pays the license
13 fee prescribed by AS 16.05.340(a).

14 (c) A person may not provide sport fishing guide services unless the person

15 (1) holds a current sport fishing guide license under (a) or (b) of this
16 section; and

17 (2) holds, or is an employee of a person who holds, a current sport
18 fishing operator license under AS 16.40.262 or (b) of this section.

19 (d) A sport fishing guide may provide sport fishing guide services only to
20 persons who have engaged the services of the sport fishing operator who employs the
21 sport fishing guide. A sport fishing guide may not contract directly with a person to
22 provide sport fishing guide services unless the guide also holds a current sport fishing
23 operator license.

24 (e) While providing sport fishing guide services, a guide shall have readily
25 available for inspection

26 (1) a current license issued under AS 16.05.340(a)(28)(B) or (C);

27 (2) the current licenses, tags, and permits required to engage in the
28 sport fishery for which the sport fishing guide is providing services;

29 (3) a driver's license or valid government-issued photographic
30 identification card; and

31 (4) proof of

(A) employment as a sport fishing guide by a person who holds a current license under AS 16.05.340(a)(28)(A) or (C); or

(B) current licensure under AS 16.05.340(a)(28)(A) or (C).

(f) A sport fishing guide may not

(1) aid in the commission of a violation of AS 16.05 - AS 16.40 or a regulation adopted under AS 16.05 - AS 16.40 by a client of the guide; or

(2) permit a client to commit a violation of AS 16.05 - AS 16.40 or a regulation adopted under AS 16.05 - AS 16.40 that the guide knows or reasonably believes is being or will be committed without

(A) attempting to prevent it, short of using force; and

(B) reporting the violation.

Sec. 16.40.282. Reports. (a) The department may collect information from salt water sport fishing guides, including

(1) the name and license number of each vessel licensed under AS 16.05.490 that is used in providing salt water sport fishing guide services;

(2) the amount of fishing effort, catch, and harvest by clients of a salt water sport fishing guide;

(3) the locations fished during the provision of salt water sport fishing guide services; and

(4) other information that the department or board requires by regulation.

(b) A person who holds a license issued under AS 16.40.262 or 16.40.272 shall comply with the reporting requirements in this section and reporting requirements adopted in regulation by the department or board.

(c) A person who is required to complete reports under this section may not provide false information or omit material facts in a report.

(d) A person who is required to complete reports under this section may not be issued a new license under AS 16.40.262 or 16.40.272 unless the department has received all reports required under this section for the preceding year.

(e) Information collected under this section is confidential to the extent provided under AS 16.05.815.

1 (f) The board may adopt regulations under AS 44.62 (Administrative
2 Procedure Act) that it considers necessary to implement this section.

3 **Sec. 16.40.292. Penalty.** (a) Except as provided in (b) and (c) of this section, a
4 person who knowingly violates AS 16.40.262 - 16.40.301 or a regulation adopted
5 under AS 16.40.262 - 16.40.301 is guilty of a class A misdemeanor. However, this
6 subsection does not apply to the failure to hold a current business license under
7 AS 16.40.262(a)(1) as required under AS 43.70.

8 (b) A person who, without any culpable mental state, violates AS 16.40.272(e)
9 is guilty of a violation.

10 (c) A person who knowingly violates AS 16.40.272(e) or who knowingly fails
11 to comply with a requirement for timely submission of reports required by a regulation
12 adopted under AS 16.40.282(b) is, for a

13 (1) first offense in a three-year period, guilty of a violation; and

14 (2) second or subsequent offense in a three-year period, guilty of a
15 class B misdemeanor.

16 (d) In addition to any other penalty provided by law, a court may revoke the
17 sport fishing guide license of a person who is convicted under (a) or (c)(2) of this
18 section.

19 (e) In this section, "knowingly" has the meaning given in AS 11.81.900(a).

20 **Sec. 16.40.301. Definitions.** In AS 16.40.262 - 16.40.301,

21 (1) "sport fishing guide" means a person who is licensed to provide
22 sport fishing guide services to persons who are engaged in sport fishing;

23 (2) "sport fishing guide services" means assistance, for compensation
24 or with the intent to receive compensation, to a sport fisherman to take or to attempt to
25 take fish by accompanying or physically directing the sport fisherman in sport fishing
26 activities during any part of a sport fishing trip; "sport fishing guide services" does not
27 include

28 (A) sport fishing services; or

29 (B) services provided by an assistant, deckhand, or similar
30 person who works directly under the supervision of and on the same vessel as a
31 sport fishing guide.

1 * **Sec. 3.** AS 25.27.244(s)(2) is amended to read:

2 (2) "license"

3 (A) means, except as provided in (B) of this paragraph, a
4 license, certificate, permit, registration, or other authorization that, at the time
5 of issuance, will be valid for more than 150 days and that may be acquired
6 from a state agency to perform an occupation, including the following:

7 (i) license relating to boxing or wrestling under
8 AS 05.10;

9 (ii) authorization to perform an occupation regulated
10 under AS 08;

11 (iii) teacher certificate under AS 14.20;

12 (iv) authorization under AS 18.08 to perform
13 emergency medical services;

14 (v) asbestos worker certification under AS 18.31;

15 (vi) boiler operator's license under AS 18.60.395;

16 (vii) certificate of fitness under AS 18.62;

17 (viii) hazardous painting certification under AS 18.63;

18 (ix) security guard license under AS 18.65.400 -
19 18.65.490;

20 (x) license relating to insurance under AS 21.27;

21 (xi) employment agency permit under AS 23.15.330 -
22 23.15.520;

23 (xii) registration as a broker-dealer, an agent, an
24 investment adviser, or an investment adviser representative under
25 AS 45.56.300 - 45.56.350;

26 (xiii) certification as a pesticide applicator under
27 AS 46.03.320;

28 (xiv) certification as a storage tank worker or contractor
29 under AS 46.03.375;

30 (xv) certification as a water and wastewater works
31 operator under AS 46.30;

(xvi) commercial crewmember fishing license under AS 16.05.480 other than an entry permit or interim-use permit under AS 16.43;

(xvii) fish transporter permit under AS 16.05.671;

(xviii) sport fishing operator license under AS 16.40.262;

(xix) sport fishing guide license under AS 16.40.272;

[REPEALED]

(xix) REPEALED]

(B) does not include

(i) a vessel license issued under AS 16.05.490 or 16.05.530;

(ii) a business license issued under AS 43.70;

(iii) an entry permit or interim-use permit issued under AS 16.43; or

(iv) a driver's license issued under AS 28.15;

* **Sec. 4.** The uncodified law of the State of Alaska is amended by adding a new section to read:

HARVEST DATA DOCUMENTATION REPORT. (a) The Department of Fish and Game shall prepare a report proposing solutions for improving sport fishing harvest data documentation and collection from the saltwater rental and unguided fishing industry.

(b) The report must provide consideration and analysis of collection methods used to collect comparable data by other states and comparable international jurisdictions, including British Columbia.

(c) The commissioner shall submit the report to the senate secretary and chief clerk of the house of representatives by December 1, 2022, and notify the legislature that the report is available.

* **Sec. 5.** This Act takes effect January 1, 2022.